

## REMARKS

This is the first Office Action. Claims 1-38 are pending with the response to the Office Action. Claim 22 has been allowed. Claim 2 is objected to but would be allowable if rewritten. Claims 23-38 are being added.

### Typographical Error

Claim 5 is amended to correct a typographical error, in which a comma and a period are added.

### 35 U.S.C. §103

Claims 1, 3-21 are rejected by the Office Action under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,067,474 (Schulman, et al.). Claim 1 includes a feature of "an **external** neural stimulator capable of being coupled to the implantable lead to provide stimulation energy to the lead in accordance with the initial therapy parameters". (Emphasis added.) However, the Office Action alleges that "Schulman teaches an external neural stimulator 138 and a programmer 108, (see column 9, line 29 to column 10, line 13)." Schulman discloses (column 9, line 51 to column 10, line 6):

When the battery included within the single unit 132 needs to be recharged, which may only be a few minutes a day, or a few times during the week, an external headpiece 136 is placed adjacent the unit 132, and inductive coupling is used to transfer charging power to the unit's battery. The external headpiece, in turn, connects to an external control unit 138, which may, in turn, derive its power from replaceable batteries or from an ac power plug. When programming and/or diagnostic tests are needed, an external programmer 108 may be detachably connected to the external control unit 138.

The **external control unit 138 is thus used to charge/recharge the battery** within the implanted unit 132, as well as for other purposes. For example, the **external control unit 138 may be used to override the internal speech processor with an external speech processor**, e.g., a speech processor included within the external programmer 108. Further, the external control unit 138 may be used to boost the power provided by the internal battery. **The external control unit 138 may also be used for programming the implant device 132**, e.g., fitting the ICS after implant or adjusting the stimulation parameters of the fully implantable unit 132, as well as for diagnostic purposes.

In the above cited teaching of Schulman, external control 138 is “used to charge/recharge the battery”, “may be used to override the internal speech processor with an external speech processor”, and “may also be used for programming the implant device”. However, external control 138 does not function as “an external neural stimulator capable of being coupled to the implantable lead to provide stimulation energy to the lead in accordance with the initial therapy parameters”. Thus, the Applicants submit that claim 1 is patentable over Schulman. Claims 3-15 depend from independent claim 1. Thus, the Applicants request reconsideration of claims 1 and 3-15.

Similarly, claim 16 includes the feature of “a bi-directional communications interface for communicating with the an external neural stimulator to enable the programmer to program the **external neural simulator** with the therapy parameters and to enable the external neural stimulator to provide final therapy parameter settings to the programmer, whereby the programmer may then program an implantable neural stimulator using the final therapy parameters.” and is patentable for at least the above reasons. Thus the Applicants request for reconsideration of claim 16.

Similarly, claim 17 includes the features of “establishing a bi-directional communications link between the **external neural stimulator** and a programmer”, “programming by the programmer the external neural stimulator with therapy parameters”. Moreover, claim 17 also includes the feature of “providing final therapy parameters to the programmer from the external neural stimulator, whereby the programmer may then program an implantable neural stimulator using the final therapy parameters.” (Emphasis added.) Schulman does not teach or even suggest this feature. Claims 18-21 depend from independent claim 17 and are allowable for at least the above reasons. Thus, the Applicants request for reconsideration of claims 17-21.

#### **Allowable Subject Matter**

Claim 22 is allowed. Claim 2 is objected to as being dependent upon a rejected claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicants have amended claim 2 to be an independent claim. Thus, the Applicants request for reconsideration of claim 2.

**CONCLUSION**

The Applicants are adding claims 23-38 as supported by the specification as originally filed.

Favorable reconsideration of this application is respectfully requested. The Examiner is invited to contact the undersigned should it be deemed necessary to facilitate prosecution of the application.

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